

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF TEXAS

No. 6:23-cv-00016

**Michael Lynn Justice,**  
*Plaintiff,*

v.

**Margaret M. Price et al.,**  
*Defendants.*

**ORDER**

Plaintiff Michael Lynn Justice, a prisoner of the Texas Department of Criminal Justice proceeding pro se, filed a petition alleging violations of his constitutional rights in prison. The case was referred to United States Magistrate Judge John D. Love pursuant to 28 U.S.C. § 636(b).


On January 11, 2023, the magistrate judge granted plaintiff leave to proceed *in forma pauperis* and ordered him to pay an initial partial filing fee of \$10 within thirty days, as required by the Prison Litigation Reform Act, 28 U.S.C. § 1915(b)(1). Doc. 4. On May 19, 2023, the magistrate judge issued a report recommending that plaintiff's case be dismissed without prejudice for failure to comply with that order. Doc. 14. Plaintiff filed a timely written objection. Doc. 15.

The court reviews the objected-to portions of a magistrate judge's report and recommendation de novo. *See* Fed. R. Civ. P. 72(b)(3); 28 U.S.C. § 636(b)(1). The magistrate judge recommended dismissal because plaintiff did not satisfy the initial partial filing fee requirement for this case. Doc. 14. The plaintiff objects that he attempted to pay the fee, but Texas Department of Criminal Justice staff interfered and refused to process his payment. Doc. 15. As requested by the court, Terrie Hopkins, the Department's Commissary and Trust Fund Director, has appeared by affidavit and testified that Department records reveal that "(p)laintiff has not requested a \$10.00 withdrawal for the court's filing fee." Doc. 21-1. The record establishes, therefore, that plaintiff has failed to comply with the

court's orders or the Prison Litigation Reform Act's statutory requirement to pay an initial partial filing fee to proceed with this case.

Having reviewed the magistrate judge's report de novo, and being satisfied that it contains no error, the court accepts the report's findings and recommendation. Plaintiff's case is dismissed without prejudice for his failure to comply with the orders of the court and to take the steps necessary to prosecute his claims.

*So ordered by the court on August 14, 2023.*

  
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J. CAMPBELL BARKER  
United States District Judge